

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty SCS-124-1104  
Dkt.

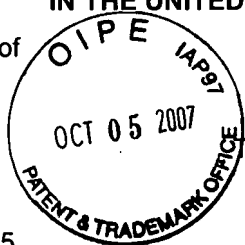
C# M#

BARNES et al

Serial No. 10/522,988

Filed: February 2, 2005

Title: OPTOELECTRONIC DEVICES



C/A.U.

2814

Examiner: A. Kalam

Date: October 5, 2007

IPW

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment **15** minus highest number  
previously paid for **20** (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment **5** minus highest number  
previously paid for **5** (at least 3) = 0 x \$210.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add  
\$370.00 (1203)/\$185.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)  
One Month Extension \$120.00 (1251)/\$60.00 (2251)  
Two Month Extensions \$460.00 (1252)/\$230.00 (2252)  
Three Month Extensions \$1050.00 (1253)/\$525.00 (2253)  
Four Month Extensions \$1640.00 (1254)/\$820.00 (2254)  
Five Month Extensions \$2,230.00 (1255)/\$1115.00 (2255) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/\$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$ 0.00

Assignment Recording Fee \$40.00 (8021) \$ 0.00

Other: \$ 0.00

**TOTAL FEE \$ 0.00**☐ **CREDIT CARD PAYMENT FORM ATTACHED.**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor  
Arlington, Virginia 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
SCS:kmm

NIXON & VANDERHYE P.C.  
By Atty: Stanley C. Spooner, Reg. No. 27,393

Signature: 



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

BARNES et al

Atty. Ref.: 124-1104; Confirmation No. 4650

Appl. No. 10/522,988

TC/A.U. 2814

Filed: February 2, 2005

Examiner: A. Kalam

For: OPTOELECTRONIC DEVICES

\* \* \* \* \*

October 5, 2007

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

This paper is in response to the re-mailed restriction requirement of September 5, 2007 (Paper No. 20070903), the date of response to which is October 5, 2007.

This second restriction requirement purportedly in compliance with the unity of invention requirement of national phase entries of PCT applications, is still believed defective. As the Examiner admits “the feature of a periodic microstructure, formed on at least one surface of the device such that surface plasmon modes are supported, is common to all of the species” is correct. However, the Examiner’s suggestion that that claimed feature is not novel over the Scherer reference (U.S. Patent 6,534,798) is believed incorrect.

As previously discussed, the Scherer reference teaches a patterned metal electrode with holes therein (holes in the pattern are specified by the requirement that the thickness vary between 40 nm and 0 nm and 0 nm indicates 0 thickness, i.e., no metal thickness or a hole). The

Examiner is reminded that it is the claim language which must be considered with respect to unity of invention issues under the PCT requirements. Applicants' independent claim 1 specifies "at least one of the electrodes is a thin semitransparent metal covering . . . ." The metal electrode cannot "cover" if it has holes in it. This common technical feature is present on the first three of the four species listed by the Examiner on page 2 of the Official Action. Therefore, at most, there are two species, i.e., species I-III and species IV as detailed in the Official Action. Accordingly, reconsideration of the unity of invention issue with respect to the above claims and the fact that claim 1 is generic to three of the four species and therefore should be examined.

Notwithstanding the above and as required by the Examiner, Applicants again with traverse species I and claims 1, 2, 4, 6-10, 11, 14 and 15 readable thereon.

Having responded to all objections and rejections set forth in the outstanding Official Action, Applicants elect with traverse species I and identifies claims 1, 2, 4, 6, 6-10, 11, 14 and 15 readable thereon. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

By: 

Stanley C. Spooner  
Reg. No. 27,393

SCS:kmm  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100